

REMARKS

Claims 1 through 15 are pending in the application. Claims 1, 5, and 12 are hereby amended as is the Specification to eliminate the alleged new matter. Claims 10 and 14 are indicated allowable. Applicant is grateful for the early indication of allowability.

Claims 1, 2, 4, 5, and 9 are rejected as anticipated under 35 U.S.C. § 102 by *Walker*. Claims 6 through 8, 12, and 13 are rejected under 35 U.S.C. § 103 as obvious over *Walker* in view of *Moore*. In view of the amendments and the following discussion of the scope and content of *Walker*, the rejection is hereby traversed. The amendments remove the new matter rejection and should be entered as they place the application in better condition for appeal. See 37 C. F. R. § 1.116 and M.P.E.P. § 706.07. Applicant respectfully submits that Examiner has misconstrued the scope and content of *Walker*, as discussed below.

All independent claims (and therefore all pending claims) specify the “upstanding wall.”¹ The claimed upstanding wall, which encloses three sides of one of the large (“first” and “second”) panels, provides a vertical or near-vertical surface against which a pet can “curl up.” At the same time, only a portion of the pet bed is partially enclosed by the upstanding wall to permit flexibility (both in the pet's choice to be against or away from the upstanding wall and to prevent the size limitation that is inherent in surrounding the entire pet bed with an upstanding wall). This feature is not disclosed, taught, or suggested by the prior art of record.

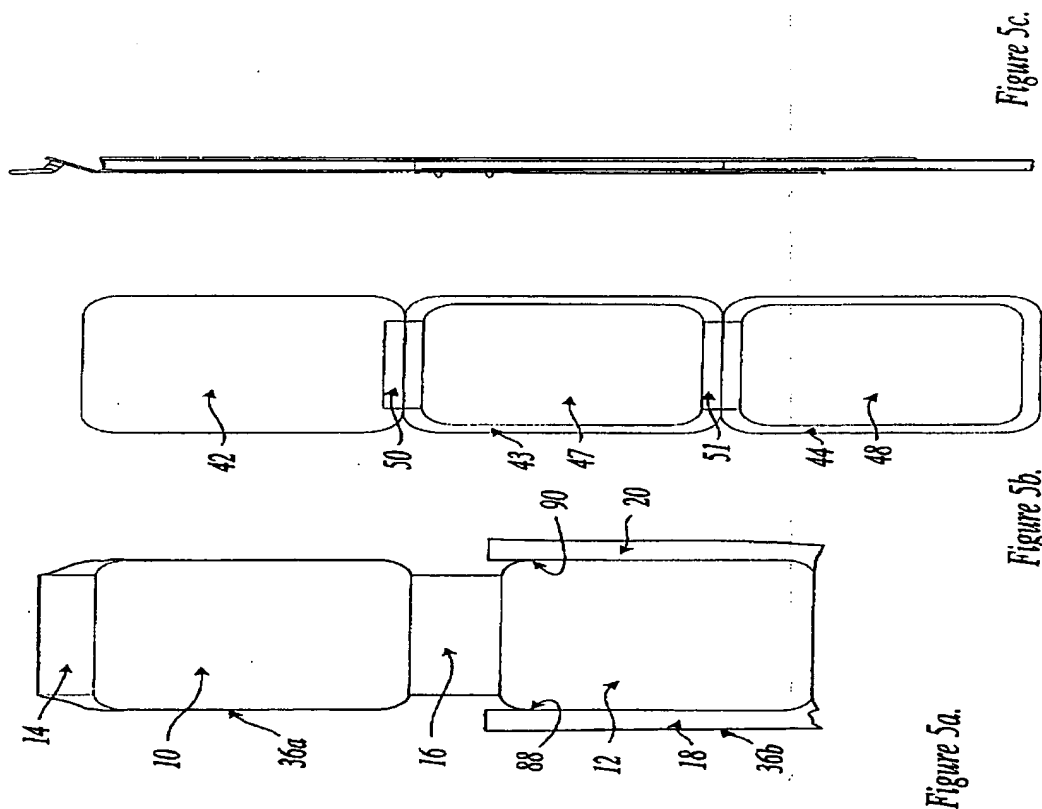
Walker discloses two embodiments of a bedding apparatus for humans. The embodiment of Figures 1 through 4b is “soft-sided,” wherein “bottom face 16, top face 14, and side faces 18 and 20, or the respective portions thereof, ***are intended to collapse underneath or alongside the cushioned bedding assembly 6.***” See *Walker*, Col. 4, ll. 26

¹ Which, as the Examiner points out, may be made upstanding in a number of ways, none of which are disclosed or suggested by *Walker*.

through 29 (emphasis added). Clearly then, the wall 18 is collapsible and not “upstanding” in the open position, as shown in Figure 3 of *Walker*.

Applicant respectfully submits that this portion of *Walker* cannot anticipate the claimed “upstanding wall.” If a pet were to curl up against wall 18, it would collapse as disclosed by *Walker*.

As the Examiner notes, *Walker* also discloses a “hard-sided” embodiment. See Col. 5, ll. 63 - 65 and Col. 6, ll. 1 - 17. Even in this embodiment, *Walker* does not disclose that walls 14, 18, and 20 are in any way capable of being “upstanding” in the open position. Only panels 10, 12, and 16 are disclosed to be rigid. *Id.* Indeed, Figure 5c, which depicts the “hard-sided” embodiment in the open or “lying flat” position, shows no upstanding wall at all. The only conclusion that can be drawn is that walls 14, 18, and 20 (Figure 5a) are either collapsible (soft-sided) or lie flat even if they are rigid, as is illustrated in Figures 5a through 5c, as reproduced here (note that Figure 5c shows panels 14, 18, and 20 lying flat or almost flat, but certainly not upstanding):



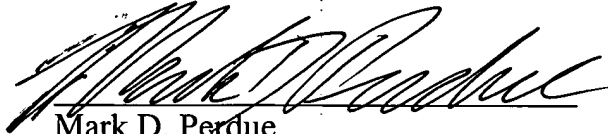
Thus, *Walker* completely fails to disclose, teach or suggest an upstanding wall as claimed. *Walker*, then, cannot anticipate any claim of the present application. Indeed, *Walker* suggests and teaches that all sidewalls, whether hard or soft, should be collapsible rather than upstanding, as claimed. *Walker*, then, cannot form the basis for an obviousness rejection under § 103. Neither *Moore* nor any of the other prior art of record disclose, teach, or suggest the upstanding wall enclosing only a portion of the pet bed in an open position, as claimed. Accordingly, Applicant submits that the rejections are improper and may not stand.

In view of the foregoing, Applicant respectfully submits that all claims are in condition for allowance and respectfully solicits the same.

Applicant has now made an earnest attempt to place this application in condition for allowance, or in better condition for appeal. Therefore, Applicant respectfully requests, for the reasons set forth herein and for other reasons clearly apparent, allowance of all pending claims so that the application may be passed to issue. If the Examiner has any questions or desires clarification of any sort, or deems that any further amendment is desirable to place this application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Applicant believes no fee is due for the filing of this amendment and response. If this is incorrect, the Commissioner is hereby authorized to charge any fee or credit any overpayment to Deposit Account No. 50-2180.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark D. Perdue', is written over a horizontal line.

Mark D. Perdue

Reg. No. 36,890

Storm LLP

Bank of America Plaza

901 Main Street, Suite 7100

Dallas, TX 75202

Telephone: (214) 347-4708

Fax: (214) 347-4799

ATTORNEY FOR APPLICANT